

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LIBBIE MUGRABI,

Plaintiff,

-against-

BANK OF AMERICA, N.A.; EQUIFAX
INFORMATION SERVICES, LLC.;
EXPERIAN INFORMATION SOLUTIONS,
INC.; and TRANS UNION, LLC,

Defendants.

23-CV-9310 (AS)

ORDER

ARUN SUBRAMANIAN, United States District Judge:

On October 23, 2023, this action was removed from the Supreme Court of the State of New York, by Defendant Bank of America, N.A. *See* ECF No. 1.

A civil action may not be removed unless “all defendants who have been properly joined and served . . . join in or consent to the removal of the action.” 28 U.S.C. § 1146(b)(2)(A); *accord Pietrangelo v. Alvas Corp.*, 686 F.3d 62, 66 (2d Cir. 2012). Defendants who do not join in the removal “must independently express their consent to removal.” *Id.* A defendant must file a notice of removal within thirty days of receiving the initial pleading or summons, “if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” 28 U.S.C. § 1146(b)(1). Within that time, all defendants who have been “properly joined and served” must consent to the removal to federal court. *Id.*; *see Taylor v. Medtronic, Inc.*, 15 F.4th 148, 153 (2d Cir. 2021) (“At bottom, nothing in the statute provides a court with any discretion to allow a party to cure a failure to meet the statute’s requirements once the thirty-day period for removal lapses.”).

There is no indication in the record presently that Defendants Equifax Information Services, LLC, Experian Information Solutions, Inc. and Trans Union, LLC join in or consent to removal. While removal generally requires the unanimous consent of all defendants, there is an exception when “the non-joining defendants have not been served with service of process at the time the removal petition is filed” *Varela v. Flintlock Const., Inc.*, 148 F. Supp. 2d 297, 300 (S.D.N.Y. 2001).

Accordingly, no later than **November 15, 2023**, Plaintiff is ordered to file an affidavit testifying whether she has properly served that Defendants Equifax Information Services, LLC, Experian Information Solutions, Inc. and Trans Union, LLC, attaching proof of the same.

SO ORDERED.

Dated: November 2, 2023
New York, New York



ARUN SUBRAMANIAN
United States District Judge